

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	MM Docket No. 00-169
Table of Allotments,	)	RM-9953
FM Broadcast Stations.	)	RM-10160
(Oswego and Granby, New York)	)	

**MEMORANDUM OPINION AND ORDER  
(Proceeding Terminated)**

**Adopted: September 3, 2003**

**Released: September 5, 2003**

By the Assistant Chief, Audio Division:

1. The Audio Division has before it the *Report and Order*<sup>1</sup> in this proceeding that granted the rulemaking request of Galaxy Communications, L.P. (“Galaxy”), licensee of Station WTKV(FM), Channel 288A, Oswego, New York, to reallocate Channel 288A from Oswego to Granby, New York, as Granby’s first local aural transmission service, and to modify Station WTKV’s license to specify Granby as its community of license. In addition, the *Report and Order* considered the application (File No. BPH-20001106ABG) filed by Cram Communications, LLC, the former licensee of Station WWDG(FM) [formerly Station WXBB(FM)], DeRuyter, New York, on a comparative basis with Galaxy’s rulemaking petition. That application was considered because it was mutually exclusive with Galaxy’s rulemaking petition, was filed by the comment date in this proceeding, and thus constituted a timely-filed counterproposal in this proceeding.<sup>2</sup> After the issuance of the *Notice of Proposed Rule Making* in this proceeding and prior to the release of the *Report and Order*, Clear Channel Broadcasting Licenses, Inc. (“Clear Channel”) became the licensee of Station WWDG(FM). Although Galaxy’s request to reallocate Channel 288A to Granby was granted, Station WWDG(FM)’s application was returned to the Audio Services Division, Mass Media Bureau, for further action. Clear Channel filed a petition for reconsideration<sup>3</sup> of the *Report and Order*, to which Galaxy filed an Opposition. Clear Channel filed a reply to the foregoing opposition pleading. For the reasons stated below, we dismiss Clear Channel’s petition for reconsideration as moot.

2. The *Report and Order* returned Clear Channel’s application to the Audio Services Division, Mass Media Bureau, for further action to allow Clear Channel an opportunity to amend its application in such a manner that it would not be mutually exclusive with the new allotment of Channel 288A to Granby and could thus be granted. Clear Channel did not amend its application, but filed a petition for reconsideration of the *Report and Order*. During the time that the petition for reconsideration was

<sup>1</sup> *Oswego and Granby, New York*, 16 FCC Rcd 16927 (M.M.Bur. 2001).

<sup>2</sup> See *Conflicts Between Applications and Petitions for Rulemaking to Amend the FM Table of Allotments*, 7 FCC Rcd 4917 (1992), *recon. granted in part and denied in part*, 8 FCC Rcd 4743 (1993).

<sup>3</sup> Clear Channel also filed a motion to stay the effect of the *Report and Order* pending disposition of its petition for reconsideration, to which Galaxy filed an opposition. Clear Channel filed a “Motion to Strike Late-Filed Opposition to Motion for Stay.” In light of our action herein, Clear Channel’s motion for stay is rendered moot.

pending, the Audio Division's staff found that Clear Channel's application was short-spaced to Station WBBS(FM), Fulton, New York. By letter dated May 12, 2003, the Audio Division wrote Clear Channel a letter requesting an amendment to rectify this violation of Section 73.207 of the Commission's Rules. Clear Channel was afforded one opportunity to amend its application, and the corrective amendment was due no later than 30 days after May 12, 2003. Because the staff had not received any response or amendment by June 30, 2003, the staff dismissed Clear Channel's application for Station WWDG(FM) with no further opportunity for amendment, pursuant to Section 73.3564 of the Rules, by letter dated June 30, 2003. The dismissal became administratively final on August 4, 2003. In this light, Clear Channel's petition for reconsideration of our *Report and Order* has been rendered moot.

3. Accordingly, IT IS ORDERED That the petition for reconsideration of the *Report and Order* in this proceeding filed by Clear Channel Broadcasting Licenses, Inc. IS DISMISSED as moot.

4. IT IS FURTHER ORDERED That this proceeding IS TERMINATED.

5. For further information concerning the above, contact R. Barthen Gorman, Mass Media Bureau, (202) 418-2180.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos  
Assistant Chief, Audio Division  
Media Bureau